IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7404 OF 2006

Rajesh Mahadeo Kelaskar ... Petitioner

V/s.

The Returning Officer,
Chiplun Municipal Council,
Chiplun, Dist.Ratnagiri & Ors. ...
Respondents.

Shri.R.S.Datar for petitioner.

CORAM : A.P.DESHPANDE, J.
DATED : 13th November, 2006.

P.C.

1. The petitioner, being desirous of contesting an election as a councillor of Chiplun Municipal Council from Ward No.3, submitted his nomination paper. On scrutiny, the said nomination paper came to be rejected by Returning Officer by holding that the petitioner is disqualified u/s.16 sub section (1)(i). The said order came to be challenged by the petitioner before the District Judge under Rule 15 and on dismissal of the Appeal, the present petition is filed. Section 16 (1)(i) reads thus : -

"if he has directly or indirectly, by himself or his partner,

any share or interest in any work done by order of a Council or in any contract with or under or by or on behalf of a Council."

2. The petitioner has admittedly entered into a contract for supply of sweets on 15/08/2006 and 26/01/2007 with the council. The contract is partly performed by the petitioner by supplying sweets on 15/08/2006 whereas the other part of the contract namely, supply of sweets on 26/01/2007 is yet to take place. On the ground that the petitioner has subsisting interest in the contract with the council, his nomination came to be rejected. The District Judge has categorically found that though the petitioner claims to have terminated the contract, the council is yet to take final decision in regard to the termination of the contract and other allied issues. The decision is to be taken in the meeting to beheld after ensuing election of the council is over. It is thus clear that on election of the petitioner as a Councillor, there would be a conflict of interest and duty, which situation is to be avoided by the provisions contained in Section 16, sub Section (1)(i) by laying down disqualification. Perused the order passed by the District Judge. I do not find any illegality.

3. Hence, no interference is called for. The learned counsel for the petitioner placing reliance on the judgement of the Apex Court reported in **AIR 1966 SC 1339 (Gulam Yasin Kahan v/s. Sahebrao Yeshwantrao Walaskar)** contended that the petitioner cannot be held to be disqualified on account of entering into a contract with the council. The said judgement does not advance the case of the petitioner any further and the judgement has no application of the facts of the present petition. In the result, the writ petition is summarily dismissed.

(A.P.DESHPANDE, J.)